

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR APPROVAL OF A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY FOR ENVIRONMENTAL PROJECT)	CASE NO.
CONSTRUCTION AT THE MITCHELL)	2021-00004
GENERATING STATION, AN AMENDED)	
ENVIRONMENTAL COMPLIANCE PLAN, AND)	
REVISED ENVIRONMENTAL SURCHARGE)	
TARIFF SHEETS)	

ORDER

On its own motion, the Commission issued an Order on May 25, 2021, directing the parties to this proceeding to file notice within three days of the date of that Order stating whether the June 15–17, 2021 hearing should be held as scheduled or whether this matter may be submitted for a final decision based upon the written record after the completion of evidence on June 9, 2021, and after the parties have filed briefs. The Commission proposed a briefing schedule in which Kentucky Power should file a brief on June 14, 2021; Intervenors should file their respective response briefs on June 24, 2021; and Kentucky Power should file a reply brief on June 30, 2021.

On May 25, 2021, the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), and Kentucky Industrial Utility Customers, Inc. (KIUC) filed joint notice that they did not object to canceling the June 15–17, 2021 hearing so long as the remaining procedural events other than the hearing

continue as scheduled. The Attorney General and KIUC did not address the briefing scheduled proposed by the Commission in the May 25, 2021 Order.

On May 27, 2021, Kentucky Power Company (Kentucky Power) filed notice that it did not object to canceling the June 15–17, 2021 hearing so long as the remaining procedural events, other than the hearing, continue as scheduled. Kentucky Power proposed a briefing schedule in which Kentucky Power would file a brief on June 15, 2021; Intervenors would file their respective response briefs on June 25, 2021; and Kentucky Power would file a reply brief on July 2, 2021.

On June 1, 2021, Sierra Club filed a motion for leave to file an untimely notice, requesting that the Commission hold the hearing as scheduled. As a basis for its request, Sierra Club argued that the record would be more fully developed by questioning Kentucky Power's witnesses at a hearing, which would include cross-examination regarding Kentucky Power's pending rebuttal testimony. Sierra Club further argued that members of the public should have the right to provide oral comments on this case.

Upon review of the notices, motion, and case record, and being otherwise sufficiently advised, the Commission concurs with Kentucky Power, Attorney General, and KIUC that a decision in this matter can be rendered based upon the written record after the conclusion of evidence on June 9, 2021, due to the robustness of the record already developed and the remaining procedural events. The Commission further finds that Sierra Club, the only party to object to deciding the matter on the written record, failed to establish good cause to hold the hearing as scheduled. We note that the case record includes Kentucky Power's responses to two rounds of discovery from all parties, and the Intervenors response to one round of discovery is due June 8, 2021. All parties filed

direct testimony; Kentucky Power will file rebuttal testimony on June 9, 2021. All parties will be afforded the opportunity to address issues raised in this case, including rebuttal testimony, in their respective briefs. Although the hearing will be canceled, the Commission finds good cause to allow for telephonic public comments on June 15, 2021, beginning at 9 a.m. Eastern Daylight Time.

The Commission finds good cause to modify the proposed procedural schedule as follows: Kentucky Power should file a brief no later than June 15, 2021; the Intervenors should file a response brief no later than June 24, 2021; and Kentucky Power should file a reply brief no later than July 1, 2021. The matter will stand submitted as of 12:01 a.m. Eastern Daylight Time on July 2, 2021.

IT IS THEREFORE ORDERED that:

1. The hearing scheduled for June 15–17, 2021, at 9 a.m. Eastern Daylight Time is canceled.
2. A public comment period shall be held on Tuesday, June 15, 2021, at 9 a.m. Eastern Daylight Time. Instructions for public comments will be posted on the Commission's website at psc.ky.gov.
3. Commission Staff will provide the parties with instructions how to participate by videoconference at the June 15, 2021 public comment period.
4. Kentucky Power may file a memorandum brief on or before Tuesday, June 15, 2021.
5. Intervenors may file a response brief on or before Thursday, June 24, 2021.
6. Kentucky Power may file a reply brief on or before Thursday, July 1, 2021.

7. This matter shall stand submitted for a decision by the Commission effective 12:01 a.m. Eastern Daylight Time on Friday, July 2 2021.

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By the Commission



ATTEST:



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